

---

STATUTORY INSTRUMENTS

---

**1996 No. 3261**

**Children's Hearings (Scotland) Rules 1996**

**PART V**

**REFERENCES FOR ADVICE AND SUSPENSION  
OF SUPERVISION REQUIREMENTS**

**Conduct of children's hearing on reference for advice by court, the local authority or approved adoption society**

**22.**—(1) This rule shall apply to any children's hearing arranged in order to consider the case of a child for the purpose of giving advice to the court, the local authority or the approved adoption society under any of the following provisions:—

section 73(13) of the Act (advice in relation to placing for adoption, application for adoption order, freeing for adoption order or parental responsibilities order);

subsection (1)(b) or (6) of section 49 of the 1995 Act (reference by court for advice in case of child not subject to supervision requirement);

section 49(3) of the 1995 Act (reference by court for advice in case of child subject to supervision requirement);

section 22A(2) of the 1978 Act (advice in relation to placing a child for adoption).

(2) Unless the children's hearing consider the case of a child in the absence of the child, a relevant person and any representative, the chairman shall, before the children's hearing proceed to consider the case, explain the purpose of the hearing to such persons as are present.

(3) The children's hearing shall proceed to consider the case of the child and during such consideration shall—

(a) consider the reference by the court, the local authority or the approved adoption society, any supervision requirement to which the child is subject, a report of a local authority on the child and his social background, and any other relevant document or any relevant information available to them;

(b) discuss the case of the child and afford to the child, any relevant person, any safeguarder and any representative, if attending the hearing, an opportunity of participating in the discussion and of being heard on the case;

(c) take steps on rule 15 to obtain the views of the child, and endeavour to obtain the views of any relevant person, and of any safeguarder if attending the hearing, on what arrangements with respect to the child would be in the best interests of the child; and

the children's hearing shall thereafter determine what advice they will give to the court, the local authority or, as the case may be, the approved adoption society.

(4) The chairman shall inform the child and each relevant person whose whereabouts are known of the substance of any reports, documents and information mentioned in paragraph (3)(a) if it appears to him that this is material to the advice that will be given and that its disclosure would not be detrimental to the interests of the child.

(5) After the children's hearing have considered the case of the child and determined the advice they shall provide, the hearing shall inform the child, any relevant person, any safeguarder and any representative, if attending the hearing of that advice.

(6) As soon as reasonably practicable after the children's hearing determine the advice they shall provide, the chairman shall make or cause to be made a report in writing providing that advice, including a statement of the reasons for that advice, and the chairman of the hearing shall sign the report and statement.

(7) Within 7 days following a determination by the children's hearing, the Principal Reporter shall send a copy of the report prepared under paragraph (6) to the court, the local authority or the approved adoption society, as the case may be, and the child, any relevant person and any safeguarder appointed in the proceedings.

(8) Where the Principal Reporter is obliged under section 73(8)(a)(iv) of the Act to arrange a children's hearing and he is advised by the adoption agency that it has determined that agreement to an application under section 16 or 18 of the 1978 Act is unlikely to be forthcoming, he shall be under an obligation to arrange a hearing to sit within 21 days of that notification from the local authority under section 73(4)(c) of the Act.

#### **Application for suspension of supervision requirements pending hearing of appeals**

**23.—**(1) An application to a children's hearing by a child or relevant person under section 51(9) of the Act for the suspension of a supervision requirement pending an appeal under section 51(1) of the Act shall be made in writing to the Principal Reporter.

(2) The Principal Reporter shall give notice in writing separately to the child and relevant person of the date, time and place of the children's hearing at which the application will be considered.

(3) The children's hearing shall afford the applicant, and his representative, and any safeguarder if attending the hearing, an opportunity of being heard.

(4) The chairman of the children's hearing shall inform the applicant at the conclusion of the hearing of the decision of the hearing and the reasons for it.

(5) If the applicant fails to attend the hearing, the application shall be treated as abandoned.

(6) An application under this rule shall not be valid unless an appeal under section 51(1) of the Act has already been lodged.